

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1373 CS

Supplemental Educational Services

**SPONSOR(S):** Attkisson

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	9 Y, 0 N, w/CS	Beagle	Mizereck
2) Education Appropriations Committee			
3) Education Council			
4)			
5)			

**SUMMARY ANALYSIS**

The No Child Left Behind Act of 2001 (NCLB) authorizes the use of federal funds to provide supplemental educational services (SES) to low income children attending low performing schools. States are required to adopt standards governing the provision of SES to eligible students. Currently, there are no provisions in Florida law establishing state standards for SES services.

The bill establishes statewide standards governing the provision of SES and prescribes certain responsibilities to the Department of Education (DOE), local education agencies (LEA), SES providers, and parents.

The bill sets an effective date of July 1, 2006.

This bill does not have a fiscal impact. See Fiscal Comments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

**Safeguard Individual Liberty:** The bill requires the Department of Education and school districts to take certain measures to increase access to supplemental educational services.

**Empower Families:** The bill increases opportunities for parents to enroll their child in supplemental education services. The bill establishes standards for supplemental educational services providers.

### B. EFFECT OF PROPOSED CHANGES:

#### Present Situation:

NCLB authorizes the use of federal funds to provide SES to low income children attending low performing schools. SES may include tutoring, additional instruction, or other services provided outside of the regular school day in reading, language arts, or mathematics.<sup>1</sup>

Generally, a student is eligible for SES if the student meets school district established criteria for low income status and is attending a school subject to restructuring or corrective action or in its second year of school improvement.<sup>2</sup> NCLB requires state education agencies (SEA) to take certain measures to promote provider participation in the provision of SES.<sup>3</sup> Each SEA must also follow federally established criteria in establishing state standards for approving providers. Each SEA must maintain and disseminate to school districts a list of the approved providers available in each school district.

School districts are required by NCLB to promptly inform parents that the school their child is attending is in need of improvement.<sup>4</sup> In addition, school districts must provide parents a list of state-approved providers.<sup>5</sup> Parents may utilize approved programs conducted by a non-profit entity, a for-profit entity, LEA, an educational service agency, a public school, a public charter school, or a private school.<sup>6</sup>

Currently, there are no provisions in Florida law establishing state standards for SES services.

#### Effect of Proposed Changes:

House bill 1373 establishes statewide standards governing the provision of SES and prescribes certain responsibilities to the DOE, LEA, SES providers, and parents. Many of these requirements are already in federal law and some build on current requirements of federal law.

#### Department of Education Responsibilities:

- Identify, notify, promote participation, and approve potential providers.
- Develop pre- and post-assessments to identify and target instruction to student needs and monitor the effectiveness of services.
- Maintain a statewide and regional list of approved providers, and make lists available to school districts.
- Develop standards for monitoring quality and effectiveness of provider services.
- Ensure that LEAs have met obligations to parents.

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<sup>1</sup> 34 C.F.R. § 200.45.

<sup>2</sup> U.S. Department of Education, Supplemental Education Services: Quick Reference for Parents, available at <http://www.ed.gov/parents/academic/help/supplemental-services.html> (Accessed Mar. 16, 2006).

<sup>3</sup> Id.

<sup>4</sup> 34 C.F.R. § 200.37.

<sup>5</sup> 34 C.F.R. § 200.46.

<sup>6</sup> 34 C.F.R. § 200.47

- Notify LEAs of specific schools that are subject to restructuring or corrective action or in the second year of school improvement.
- Post a downloadable enrollment application on the DOE website.
- Convene an advisory council to assist DOE in developing regulations to guide the selection and oversight of SES providers.

Local Education Agency Responsibilities:

- Provide recurrent notification to parents of eligible students about the availability of SES.
- Assist parents in obtaining and registering for services.
- Determine per-student funding based on federal law limits.
- Follow prescribed procedures for agreements with SES providers.
- Approve providers in a fair and transparent manner and establish procedures for monitoring provider quality and performance.

Provider Responsibilities:

- Set and target instruction to student achievement goals.
- Establish and explain procedures for monitoring progress and notifying parents and classroom instructors of student progress.
- Ensure that all instruction is secular, neutral, and nonideological.

Parent Responsibilities:

- Request services and select a provider.
- Provide transportation to the student when not otherwise provided by the provider.
- Work with providers to set student goals and maintain open communication with the provider.

In addition, the bill establishes eligibility criteria that SES providers must meet to gain state approval and requires the DOE to establish a system for conducting annual evaluations of all SES providers. The bill establishes a complaint process for parents, students, LEAs, and SES providers for determining whether the DOE and LEAs are in compliance with applicable laws and regulations governing SES.

The bill authorizes the DOE to withhold Title I funds from LEAs that fail to provide SES to eligible students.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law governing the provision of SES.

Section 2. Provides an effective date of July 1, 2006.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires the DOE and LEAs to take certain measures to notify parents of eligible students of the availability of supplemental educational services. Private providers approved by DOE may experience an increase in demand for their services.

D. FISCAL COMMENTS:

NCLB requires school districts with schools subject to restructuring or corrective action or in the second year of school improvement to set aside 20% of their Title I funds to pay for SES. The bill requires LEAs to establish per student funding amounts and take certain measures to increase the availability of SES to eligible students. The increased demand for SES that is likely to occur will result in greater expenditures of Title I funds within the 20% set aside for providing SES.

The bill prohibits school districts from using leftover SES funds for other Title I purposes unless the district ensures that a minimum of 50% of eligible students are being served. School districts are required to take additional measures to notify, enroll, and serve SES students and must also obtain a documented denial of services from each parent who does not enroll their student in SES. School districts that fall short of the 50% enrollment criteria despite reasonable efforts to comply with these measures may request authorization from the DOE to redesignate unused SES funds for other Title I purposes.

The bill allows the DOE to withhold Title I funds from school districts that fail to meet certain obligations pertaining to SES services.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the PreK-12 Committee adopted two amendments to the bill.

The first amendment provides a procedure for LEAs to redesignate unused SES funds for other Title I purposes. The second amendment establishes an advisory council to assist DOE in developing regulations to guide the selection and oversight of SES providers.

This bill analysis reflects the bill as amended.